



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2601

Introduced 1/20/2006, by Sen. William R. Haine - M. Maggie Crotty

SYNOPSIS AS INTRODUCED:

755 ILCS 45/2-7.5

Amends the Power of Attorney Act. Provides that in the event that a principal of a power of attorney is incapacitated and the agent fails, within 21 days after a request, to provide records of receipts, disbursements, and significant actions to an elder abuse provider agency, the State Long Term Care Ombudsman, or the Inspector General of the Department of Human Services, the agency or the Ombudsman may petition the court to compel the production of the documents. Provides that failure to produce the records without good cause may subject the agent to a court order for costs, attorney's fees, and other relief. Effective immediately.

LRB094 16176 AJO 51419 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Power of Attorney Act is amended by
5 changing Section 2-7.5 as follows:

6 (755 ILCS 45/2-7.5)

7 Sec. 2-7.5. Incapacitated principal.

8 (a) This Section shall apply only to an agent acting for a
9 principal who is incapacitated. A principal shall be considered
10 incapacitated if that individual is under a legal disability as
11 defined in Section 11a-2 of the Probate Act of 1975. A
12 principal shall also be considered incapacitated if: (i) a
13 physician licensed to practice medicine in all its branches has
14 examined the principal and has determined that the principal
15 lacks decision making capacity; and (ii) that physician has
16 made a written record of this determination and has signed the
17 written record within 90 days after the examination; and (iii)
18 the written record has been delivered to the agent. The agent
19 may rely conclusively on that written record.

20 (b) An agent shall provide a record of all receipts,
21 disbursements, and significant actions taken under the
22 authority of the agency when requested to do so: (i) by a
23 representative of a provider agency, as defined in Section 2 of
24 the Elder Abuse and Neglect Act, acting in the course of an
25 assessment of a complaint of elder abuse or neglect under that
26 Act; (ii) by a representative of the Office of the State Long
27 Term Care Ombudsman acting in the course of an investigation of
28 a complaint of financial exploitation of a nursing home
29 resident under Section 4.04 of the Illinois Act on the Aging;
30 or (iii) by a representative of the Office of Inspector General
31 for the Department of Human Services acting in the course of an
32 assessment of a complaint of financial exploitation of an adult

1 with disabilities pursuant to Section 35 of the Abuse of Adults
2 with Disabilities Intervention Act.

3 (c) If the agent fails to provide his or her record of all
4 receipts, disbursements, and significant actions within 21
5 days after a request under paragraph (b), the elder abuse
6 provider agency or the State Long Term Care Ombudsman may
7 petition the court for an order requiring the agent to produce
8 his or her record of receipts, disbursements, and significant
9 actions. If the court finds that the agent's failure to provide
10 his or her record in a timely manner to the elder abuse
11 provider agency or the State Long Term Care Ombudsman was
12 without good cause, the court may assess reasonable costs and
13 attorney's fees against the agent, and order such other relief
14 as is appropriate.

15 (Source: P.A. 94-500, eff. 8-8-05.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.